

# SENATE BILL REPORT

## ESSB 6555

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As Amended by House, March 6, 2012

**Title:** An act relating to child protective services.

**Brief Description:** Providing for family assessments in cases involving child abuse or neglect.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Shin and Roach).

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/31/12, 2/02/12 [DPS-WM].

Ways & Means: 2/06/12, 2/07/12 [DPS(HSC)].

Passed Senate: 2/11/12, 46-0.

Passed House: 3/01/12, 97-0; 3/06/12, 80-17.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 6555 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Carrell, Harper, McAuliffe and Padden.

**Staff:** Jennifer Strus (786-7316)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 6555 as recommended by Committee on Human Services & Corrections be substituted therefor, and the substitute bill do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Brown, Conway, Fraser, Harper, Hatfield, Hewitt, Holmquist Newbry, Honeyford, Kastama, Keiser, Kohl-Welles, Padden, Pridemore, Regala, Schoesler and Tom.

**Staff:** Jenny Greenlee (786-7711)

**Background:** Child Protective Services (CPS) in Washington. CPS are services provided by the Department of Social and Health Services (DSHS) designed to protect children from child abuse and neglect, safeguard such children from future abuse and neglect, and conduct

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investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. CPS includes a referral to services to ameliorate conditions that endanger the welfare of children; the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect; and services to children to ensure that each child has a permanent home.

Duty to Investigate. A number of professionals who regularly work with children are mandated reporters in Washington State. If they have reasonable cause to suspect that a child has been abused or neglected they must report that fact to DSHS or law enforcement. DSHS must investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation or that present an imminent risk of serious harm. On the basis of the findings of such investigation, DSHS or law enforcement must offer child welfare services in relation to the problem to such parents, legal custodian or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of non-accidental injuries that are clearly not the result of a lack of care or supervision by the child's parents, legal custodian, or persons serving in loco parentis. If the investigation reveals that a crime against a child may be committed, the DSHS must notify the appropriate law enforcement agency.

Appeal of a Finding of Child Abuse or Neglect. A person named as an alleged perpetrator in a founded allegation of child abuse or neglect has the right to seek review and amendment of the finding. Within 20 days of receiving notice that the person has been named as a perpetrator in an allegation of abuse or neglect, the person must provide written notice to DSHS that he or she wishes to contest the finding. If the request is not made within the time period, the person has no right to agency review or further administrative or court review of the finding. After receiving notification of the results of DSHS's review, the person has 30 days within which to ask for an adjudicative hearing with an administrative law judge. If the request is not made within the 30-day period, the person has no right to further review

Alternative Response System in Washington. In 1997 the Legislature authorized an alternative response system (ARS). ARS was voluntary family-centered service provided by a contracted entity with the intention to increase the strength and cohesiveness of families that DSHS has determined to present a low risk of child abuse or neglect. The families that were referred to ARS were families that would not have been screened in for investigation. In 2006 DSHS redesigned ARS program because a study of ARS determined that it was not producing good outcomes. The new program was called Early Family Support Services (EFSS). The stated goals of this program included the implementation of a standardized assessment tool, development of service delivery standards, and integration of promising or evidence-based programs. Again, the families referred to this program were those not likely to be screened in for an investigation.

Consideration of Differential Response in Washington. In 2008 DSHS issued a legislative report regarding its consideration of a differential response system. The report described pros and cons associated with implementing differential response, which are summarized below.

*Pros:*

1. Social workers could concentrate on family assessment and case planning rather than the outcome of an investigation.

2. Investigative findings may become more consistent, due to a narrower focus.
3. Families that are chronically reported to CPS may receive more therapeutic interventions that are motivational in nature.

*Cons:*

1. In order for change to succeed the total agenda must be staged and doable, organizational capacity must be addressed given the number of change initiatives underway.
2. Funding, service levels, and ability to meet the basic needs of families would limit the outcomes of a differential response system.
3. The CA would likely not have the ability to respond to families in an assessment track with immediate services to meet their basic living needs and if Washington prioritized services for the most at-risk children, then lower risk families in the assessment track would receive fewer services paid by the DSHS/CA.
4. All social work staff must be trained in engaging families and assessing safety and risk factors.
5. Implementation of non-contracted differential response system would require further specialization of staff and additional categorization of families.
6. Agencies serving vulnerable adults and children would not learn about some potential CPS concerns regarding persons applying to be employed or licensed since CPS investigative findings on some cases involving maltreatment would no longer occur for families diverted to the assessment track.
7. Research did not clearly indicate that referring moderate risk families to differential response will improve outcomes (some states limit an alternate response to low risk cases).

Differential Response In Other States. A number of other states have implemented a differential response system. Minnesota is the state with the longest running differential response system. Approximately 18 other states have similar systems. In the differential response system, cases that would normally be screened in and investigated are placed in the differential response system where the families strengths and weaknesses and child safety are assessed and no investigation is conducted nor are findings of child abuse made. If the family does not wish to participate, unless the case presents no child safety issues, the case is referred for investigation.

**Summary of Engrossed Substitute Bill:** Family Assessment Track (FAT). When DSHS receives a report of child abuse or neglect, DSHS must use one of two responses for reports that are screened in and accepted for response: an investigation or a family assessment. In making this response, DSHS must:

1. use a method by which to assign cases to investigation or family assessment that are based on an array of factors that may include the presence of imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics.
2. allow for a change in response assignment based on new information that alters risk or safety level;
3. allow families assigned to FAT to choose to receive an investigation rather than a family assessment;
4. provide a full investigation if a family refuses the initial family assessment;

5. provide voluntary services to families based upon the results of the initial family assessment; and
6. conduct an investigation on response to allegations that:
  - a. pose a risk of imminent harm to the child;
  - b. pose a serious threat of substantial harm to the child;
  - c. constitute conduct that is a criminal offense and the child is the victim; or
  - d. the child is an abandoned or adjudicated dependent child.

DSHS is not liable in using FAT to respond to an allegation of child abuse or neglect unless the response choice was made with reckless disregard.

A family assessment is defined as a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. The assessment does not include a determination as to whether child abuse or neglect occurred but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment. FAT is defined as a way of responding to certain reports of child abuse or neglect using a differential response approach to child protective services. FAT is to focus on safety of the child, the integrity and preservation of the family, and is to assess the status of the child and family in terms of risk of abuse and neglect including a parent's or guardian's capacity and willingness to protect the child. No one is named as a perpetrator and no investigative finding is entered in DSHS's database as a result of the FAT.

DSHS must implement FAT by December 1, 2013. DSHS must develop an implementation plan in consultation with stakeholders including the tribes. DSHS must submit an implementation plan report to the Legislature by December 31, 2012.

For reports that are placed in the FAT, DSHS must :

1. provide the family with a written explanation of the procedure for assessment of the child and family and its purpose;
2. complete the family assessment within 45 days of receiving the report. Upon parental agreement, this time period can be extended to 60 days;
3. offer services to the family in a manner that makes it clear acceptance of the services is voluntary;
4. implement the family assessment track in a non-arbitrary, non-coercive manner;
5. have the parent or guardian sign an agreement to participate in services form before services are initiated that informs the parents of their rights under the family assessment track, all of their options and the options DSHS has if parents do not sign the form.

Upon completion of the family assessment, if DSHS determines that no services be offered, the case is closed. Within ten days of the conclusion of the family assessment, DSHS must meet with the child's parent or guardian to discuss the recommendations for services to address child safety concerns or significant risk of subsequent child maltreatment. If the parent or guardian disagrees with DSHS's recommendation regarding the provision of services, DSHS must convene a family team decision-making meeting (FTDM) to discuss the recommendations and objections. The caseworker's supervisor and the area administrator must attend the FTDM.

DSHS must develop a family assessment tool which at a minimum must include the following:

1. An interview with the child's parent, guardian, or other adult residing in the child's home who serves in a parental role. The interview is to focus on ensuring the immediate safety of the child and mitigating future risk of harm to the child in the home environment.
2. An interview with other persons suggested by the family or whom DSHS believes has valuable information.
3. An evaluation of the safety of the child and any other children living in the same home. The evaluation may include an interview with or observation of the child.
4. In collaboration with the family, identification of family strengths, resources, and service needs and the development of a plan of services that reduces risk of harm and improves or restores the family well-being.

The Washington State Institute for Public Policy (WSIPP) must conduct an evaluation of the implementation of the FAT. WSIPP is to define the data to be gathered and maintained. At a minimum, the evaluation is to address child safety measures, out of home placement rates, re-referral rates and caseload sizes and demographics. WSIPP's first report is due December 1, 2014, and its final report is due December 1, 2016.

DSHS must conduct two client satisfaction surveys of families that have been placed in the FAT. The first survey results are to be reported by December 1, 2014, and the second survey results by December 1, 2016.

Appeal of a Finding of Child Abuse or Neglect. A person named as an alleged perpetrator in a founded allegation of child abuse or neglect has the right to seek review and amendment of the finding. Within 30 days of receiving notice from DSHS that the person has been named as a perpetrator in an allegation of abuse or neglect, the person must provide written notice to DSHS that he or she wishes to contest the finding. The written notice provided by DSHS to the perpetrator must contain the following:

1. information about DSHS's investigative finding as it relates to the alleged perpetrator;
2. sufficient factual information to apprise the alleged perpetrator of the date and nature of the founded allegation;
3. the alleged perpetrator has the right to submit a written response regarding the finding which DSHS must file in the records;
4. that information in DSHS's records may be considered in a later investigation or proceeding related to a different allegation of child abuse or neglect;
5. that founded allegations of abuse or neglect may be used in determining;
  - a. whether the person is qualified to be licensed or approved to care for children or vulnerable adults;
  - b. whether the person is qualified to be employed by DSHS in a position having unsupervised access to children or vulnerable adults.
6. that the alleged perpetrator has the right to challenge the founded allegation of abuse or neglect.

If the request is not made within the time period, the person has no right to agency review or further administrative or court review of the finding, unless the person can show that DSHS

did not comply with the notice requirements of RCW 26.44.100. After receiving notification of the results of DSHS's review, the person has 30 days within which to ask for an adjudicative hearing with an administrative law judge. If the request is not made within the 30-day period, the person has no right to further review.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Original Bill (Human Services & Corrections):**

PRO: FAT is a wonderful alternative to the usual CPS investigation process that many parents have gone through. It's a way to provide resources to the home and families and guide them to be successful in raising their children. Work directly with families going through the dependency process and meet many women who could have benefited from a family assessment rather than a traditional CPS investigation. Outcomes associated with this approach in other states include reducing re-referrals into CPS, increasing worker satisfaction, increasing family satisfaction, and saving the state money. A domestic violence sensitive process can really benefit children and protect their safety while keeping them with a protective parent. Domestic violence sensitive differential response programs, like the one in Rochester, Minnesota have shown that kids are safe while staying with a parent - prevent out of home placement. Will see fewer court cases if this bill is passed because more cases will be resolved without having to go to court. Would allow DSHS more flexibility in responding to reports of child abuse and neglect while still maintaining accountability to intervene sooner. Concerned about the need for additional funding for DSHS to implement this system.

**Persons Testifying (Human Services & Corrections):** PRO: Shrounda Selivanoff, WA State Parent Advocacy Committee; Joanne Moore, OPD; Denise Revels-Robinson, DSHS; Margaret Hobart, WA State Coalition Against Domestic Violence; Laurie Lippold, Children's Home Society

**Staff Summary of Public Testimony on Substitute (Ways & Means):** PRO: The investigation process with CPS leaves parents feeling disengaged and angry. Investigations are very expensive and do not help families. FAT would allow parents to form a partnership with CPS, which will lead to better outcomes for families and children. This new approach would allow families to receive services up front and encourage parents to engage in those services. There is a lot of repetitive use of the child welfare system. This bill would shift spending from courts and investigations to up front services. Other states have found a reduction in re-referrals and an increase in family engagement, social worker satisfaction, and use of services after implementing similar systems.

**Persons Testifying (Ways & Means):** PRO: Kelly St. Clair, Snohomish County Parent Advocacy; Kimberly Mays, King County Parent Advocacy Center; Grace Huang, WA State

Coalition Against Domestic Violence; Laurie Lippold, Children's Home Society, The Mockingbird Society.

**House Amendment(s):**

- Allows the DSHS to implement the FAR on a phased-in basis, by geographical area;
- Modifies components in the implementation plan;
- Clarifies that DSHS must develop strategies to assist and connect families with the appropriate private or public housing supports for those parents whose inability to obtain or maintain safe housing creates a risk of harm to the child, risk of out-of-home placement of the child, or a barrier to reunification (safe and stable housing language is removed);
- Includes a potential phase-in schedule if proposed;
- Adds recommendations for legislative action required to implement the plan;
- Permits identification of philanthropic funding available to supplement public resources;
- Requires DSHS to develop mechanisms to involve the child's Washington State tribe, if any, in any FAR, when the child subject to the FAR is an Indian child;
- Clarifies that FAR must be completed within 45 days unless a parent agrees to an extension. Upon parental agreement, the FAR may be extended up to 90 days;
- Adds provisions of ESHB 2510, which addresses the liability of governmental entities for acts or omissions in conducting emergent placement investigations of child abuse or neglect and provides that the state is not liable for actions taken to comply with court orders and that child abuse investigators are entitled to the same witness immunity as other witnesses.